

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Joint Submission of the Amended)
Plan of Record for Operations) Docket No. 00-0592
Support Systems ("OSS"))

FINAL STATEMENT OF POSITION OF
McLEODUSA TELECOMMUNICATIONS SERVICES, INC.,
BIRCH TELECOM OF THE GREAT LAKES, INC.
AND
NEXTLINK ILLINOIS, INC. D/B/A XO ILLINOIS, INC.

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H. Small CECs Exhibit No. 1

Witness _____

Date 10/20/00 Reporter _____

DATED: October 13, 2000

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McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), Birch Telecom of the Great Lakes, Inc. ("Birch") and NEXTLINK Illinois, Inc. d/b/a XO Illinois, Inc. ("XO") (hereafter jointly referred to as "Joint Small CLECs"), by their attorneys, hereby file their Final Statement of Position Related to the Joint Submission for Arbitration Per Ameritech's Amended Plan of Record for Operational Support Systems ("OSS").¹

I. INTRODUCTION

The Commission's order² approving the merger of SBC and Ameritech requires Ameritech to implement a comprehensive plan of record ("POR") for improving the Operational Support Systems ("OSS") systems and interfaces available to competitive local exchange carriers ("CLECs") in Illinois. The purpose of this arbitration is to resolve the disputed issues related to SBC/Ameritech's proposed POR.³

Joint Small CLECs intervened in this proceeding because, as providers of competitive local exchange services in Illinois, they are dependent upon SBC/Ameritech's OSS to obtain access to SBC/Ameritech's bottleneck facilities and services in order to serve their customers. As the Commission itself noted in the order approving the SBC/Ameritech merger, "perhaps few other elements of telecommunications provisioning are more critical to the flow of benefits from competition to consumers . . . OSS are critical

¹XO takes no position on Issue 73.

²Order, Docket 98-0555 (Sept. 23, 1999).

³As the Commission is well aware, SBC/Ameritech initially proposed a plan of record that was insufficient to meet the requirements of the merger order. Consequently, it was rejected by the Commission. This subject of this arbitration are terms and conditions contained in Ameritech's revised Plan of Record, which was subsequently approved by the Commission.

to engendering competition in the local exchange marketplace and protecting the interests of Ameritech Illinois' customers." (Merger Order, p. 198)

Contrary to SBC/Ameritech's claims throughout this proceeding, it is intuitively obvious that the Commission's decision in this docket will have a profound impact on whether Joint Small CLECs will be able to effectively compete with SBC/Ameritech for local service in Illinois. Given their limited resources, Joint Small CLECs have addressed the particular issues that most significantly impact their ability to effectively compete in Illinois.⁴ For the reasons described below, Joint Small CLECs respectfully urge the Commission to adopt their recommendations and seize this opportunity to take a step forward in making Illinois a truly competitive market for local service.

The Commission must also recognize that many of the issues before it in this proceeding involve the timing of OSS enhancements. The resolution of those issues boils down to whether the Commission accepts SBC/Ameritech's oft repeated claim that it just cannot get the job done any sooner. (See e.g., Tr. 289-92) The Commission must question what can be accomplished in a given time frame and whether it makes sense to require more of SBC/Ameritech than SBC/Ameritech is willing to provide. The Commission must not simply accept SBC/Ameritech's claims, since the evidence shows that when SBC/Ameritech wants to get a job done it is able to do so.

In reviewing the record and reaching a decision on these disputed issues, the Commission must not forget the reason why this proceeding is important to

⁴Joint Small CLECs' failure to address any disputed issue in this arbitration should not be deemed acquiescence in SBC/Ameritech's position thereon. Rather, Joint Small CLECs understand that other CLECs will be addressing other issues.

SBC/Ameritech. It is only if the Commission approves its POR that SBC/Ameritech has any chance to obtain the coveted 271 authority it so desperately desires. Yet, on the other hand, the Commission should also recognize that the CLECs have repeatedly identified these issues as their highest priority items for many months. SBC/Ameritech has nevertheless refused to modify its position on these issues and, on one significant issue, SBC/Ameritech has backslided.⁵ What this indicates is that decisive action is required by this Commission in order to resolve these issues in a manner that is conducive to competition.

Much has been stated recently about the decline in SBC/Ameritech's service and the impact of the SBC/Ameritech merger on end user customers and competitors alike. Questions have been raised as to whether the Commission erred in approving the merger. The only way to satisfactorily answer those questions and to find a resolution that is truly in the public interest is to adopt the position of the Joint Small CLECs on the issues addressed herein. Any other conclusion will appropriately lend further support to the conclusion that approval of the merger was erroneous. The Commission must require SBC/Ameritech to honor the commitments and promises it so freely offered in order to win approval of its merger, and should keep in mind the old adage: fool me once, shame on you, fool me twice, shame on me.

This final statement is organized by disputed issue number. A brief statement of the issue and the competitive ramifications of rejection of the Joint Small CLECs' position are

⁵On the day the Joint Petition for arbitration was filed, SBC/Ameritech modified its position and for the first time indicated that it would not make lite address validation available for any orders until three months later than the filed POR indicates, i.e., on March 1, 2001. See Disputed Issue 13, below.

stated at the beginning of the discussion of each issue. The actual language Joint Small CLECs propose be included in SBC/Ameritech's POR is included in Appendix A to this final statement.

II. DISCUSSION OF DISPUTED ISSUES

Disputed Issue 1: Application Versioning

Statement of Issue: **SBC/Ameritech has agreed to make application versioning, i.e., the process by which SBC/Ameritech supports multiple versions of a production application, available in March 2001. The CLECs want versioning made available prior to March 2001.**

**Competitive
Ramifications:**

If versioning is not available, CLECs may not be able to implement changes to their systems and processes needed to accommodate new applications SBC/Ameritech chooses to implement. Versioning will allow CLECs to forgo the most recent release and continue with the current version if it meets the CLEC's specific needs, eliminating the need for the CLEC to commit precious resources to an upgrade which may not affect its business. Further, the three month interval at issue here is critical to CLECs, especially smaller CLECs, who must stay focused on their business plan in this fast-paced telecommunications market.

New versions of interfaces need to be implemented to bring SBC/Ameritech's system up to current industry standards. Versioning is the ability to keep two versions of a particular software system – current and most recent past version – available at the same time.⁶ SBC/Ameritech has agreed to implement versioning, but not until March 2001.

⁶Versioning could also require that the incumbent local exchange carrier make three versions of a release available. For example, if SBC/Ameritech were to release a "dot" for

The only issue that the Commission must resolve related to application versioning is whether SBC/Ameritech should be required to implement versioning sooner than it proposes. The evidence supports the conclusion that versioning should be implemented as soon as possible, but no later than by the end of the year.

The need for versioning is a function of the multiple OSS changes SBC/Ameritech plans in Illinois, which in turn is a result of SBC/Ameritech's failure to keep up with industry standards. As the Commission is well aware, it conditioned approval of the SBC/Ameritech merger on the requirement that SBC/Ameritech implement industry-standard⁷ versions of its OSS interfaces. Industry standards are continually being updated through the release of new versions of these interfaces. However, SBC/Ameritech's systems have not been updated as required. For example, LSOG Version 3 was adopted by the industry in May 1998 and LSOG 4 became the industry standard in June 1999.⁸ In March 2001, SBC/Ameritech plans to upgrade its pre-ordering and ordering interface versions from LSOG 2 to LSOG 4. (AT&T Initial Comments, AT&T Ex. 4, p. 45)

CLECs learn of the changes required to their interfaces through participation in the Change Management Process and related forums. Necessary CLEC changes could include programming changes to the CLECs' systems, training of employees, and process

LSOG 4 (e.g., LSOG 4.1), it would continue to provide two versions of the current release (e.g., LSOG 4.0 and LSOG 4.1) and the most current version of the previous release (e.g., the most version of LSOG 3). (AT&T Initial Comments, AT&T Ex. , p. 46, fn. 28)

⁷Published industry standards are provided by the Alliance for Telecommunications Industry Solutions ("ATIS") and are known as the Local Service Ordering Guides ("LSOG") and the Electronic Local Mechanized Specifications ("ELMS"). (AT&T Initial Comments, AT&T Ex. 4, p. 45)

⁸LSOG 5 standards are scheduled to be issued in late October 2000.

and procedure changes. In addition, CLEC internal testing must be done in parallel with SBC/Ameritech's internal testing so that joint testing of the new SBC/Ameritech interface and the CLEC complement can be coordinated prior to implementation. However, a CLEC may not be able to complete the work at the exact time SBC/Ameritech implements a new version of a particular system. (AT&T Initial Comments, AT&T Ex. 4, pp. 45-46)

While the Commission might believe that OSS upgrades should be lauded by the CLECs, in fact they impose additional burdens since upgrades always require complementary CLEC changes. When SBC/Ameritech implements a new version or an upgrade of an existing interfaces, i.e., a release, significant changes may be required on the CLEC side of the interface. For example, if a change deviates the manner in which a CLEC is to complete certain types of orders sent to SBC/Ameritech, each CLEC using these order types must change its systems simultaneously with SBC/Ameritech's implementation of the change. If that is not done, order rejects or errors may occur. A change that is not fully implemented by the CLEC can disrupt the CLEC's ability to send orders and meet its customers' needs. (AT&T Initial Comments, AT&T Ex. 4, pp. 45-46)

It is abundantly clear -- and not in dispute in this proceeding -- that "flash cut" changes to interfaces by CLECs and SBC/Ameritech are not practical. For this reason, SBC/Ameritech, like many incumbent local exchange carriers ("ILECs")⁹, has agreed to implement "versioning," which means that, when implementing a new software system, it will make the existing software system available to Illinois CLECs in addition to the new

⁹Southwestern Bell Telephone ("SWBT") and Pacific Bell, SBC/Ameritech's affiliates, and Qwest, and Verizon make versioning available. (AT&T Initial Comments, AT&T Ex. 4, p. 47, fn. 30)

software system. This allows CLECs the flexibility to use the existing version to migrate to the new version when each has had time to upgrade its systems and train its employees on use of the new version. Versioning also allows CLECs time to wait until the particular interface version becomes more stable and reliable in the marketplace before utilizing it. Versioning provides CLECs the needed flexibility to implement a system in accordance with its own business needs, and only after it has conducted successful testing and training. (AT&T Initial Comments, AT&T Ex. 4, pp. 46-47)

The only issue in dispute related to versioning is the timing of its implementation. SBC/Ameritech has agreed to implement versioning of its pre-order and order interfaces beginning with the implementation of the March 2001 software installations. However, this proposal leaves a gap (from now until March 2001) when versioning will not be available to Illinois CLECs. During this period, SBC/Ameritech plans on issuing one pre-order and four order releases for its electronic interfaces. Without versioning, CLECs using these interfaces would be forced to implement these releases on a flash cut basis, even if they are unable to do so.

SBC/Ameritech claims that the delay will cause no harm to CLECs since the implementation of versioning will coincide with its implementation of LSOG 4 for ordering and pre-ordering interfaces, and that LSOG 4 is the only upcoming change before March 2001 that will have "coding" impacts on CLECs. (SBC/Ameritech Initial Comments, Amer. Ex. 15, p. 12) These claims are misleading. First, while coding impacts are significant, there are other impacts that changes to systems can have on CLECs. (Tr. 391) Enhancements or other changes made by SBC/Ameritech could necessitate a change in CLEC processes or procedures, or additional CLEC employee training. (Id.) Second, and

significantly, SBC/Ameritech's expert on this issue was unable to confirm that there are no other changes between now and March 2001 that would necessitate changes in CLEC processes and procedures. (Tr. 392) In fact, the evidence shows that there are. (See Cross Ex. 4)

Finally, SBC/Ameritech claims that it may not be able to implement LSOG 4 in March 2001 if required to implement versioning before then. (SBC/Ameritech Initial Comments, Amer. Ex. 15, p. 12) It is for this Commission to decide to what extent SBC/Ameritech should commit resources to implementing the types of OSS changes contemplated by the merger order. The Commission must not accept SBC/Ameritech's threat that it will simply be unable to make those changes if forced to do so on a timely basis.

The competitive ramifications of allowing the delay asked for by SBC/Ameritech are significant. If a CLEC is unable to use a new iteration of a particular system, it may be unable to market to new customers and equally unable to provide service changes to its existing customers. The CLECs' ability to provide seamless service to customers would be jeopardized. In order ensure a smooth CLEC transition to these imminent releases, the Commission should direct SBC/Ameritech to implement versioning as soon as possible, but by no later than the end of the year.

Disputed Issue 2: Joint Testing (Both Long Term and Interim)

Statement of Issue: SBC/Ameritech plans to change its joint testing in March 2001 in a manner consistent with joint testing in the SWBT and PacBell regions. The CLECs take the position that the current testing environment is wholly inadequate and the

proposed future testing environment also will not be adequate since it will not mirror the production environment.

**Competitive
Ramifications:**

If the joint testing environment does not mirror the production environment, CLECs will not be able to determine whether the results of the tests will hold true in production.

The issue of joint testing arises when an ILEC or CLEC implements a new OSS interface or application, including releases or versions. Similarly, a CLEC may choose to upgrade or change its side of an OSS interface, or its own process and procedures directed at utilizing those interfaces. In both instances it is essential that, before a CLEC can use the new release or upgrade, it must be able to conduct joint testing of the new to ensure that the change will not adversely affect its ordering and provisioning of local service.

SBC/Ameritech's current joint testing process is inadequate for a CLEC to test changes on a commercially viable basis. First, CLECs may now only test five orders a day. Second, the manual nature of the testing process causes a four-day turn-around in getting test results.¹⁰ (AT&T Initial Comments, AT&T Ex. 4, pp. 60-61) This is hardly the type of robust testing necessary to evaluate systems and processes changes.

In addition, SBC/Ameritech's current joint testing process does not allow CLECs to test changes in the application-to-application interfaces in a test mode. This places actual CLEC orders at risk. SBC/Ameritech should provide an entirely separate computer system

¹⁰The five order per day order restriction applies to all order types. Such a restriction limits a CLEC's ability to test in a timely manner changes to its system that involve several different order types.

for CLECs to use for testing, and that system should be identical to the production system. This would provide CLECs the opportunity to test changes under a managed methodology and verify test results, while alleviating the risk to production processes. (AT&T Initial Comments, AT&T Ex. 4, pp. 61-62) The evidence establishes that, in order for joint testing to be meaningful, it must be conducted in an environment that is identical to the production environment. (Tr. 665)

SBC/Ameritech proposes to establish new joint testing processes for pre-ordering and ordering that will be available to CLECs in March 2001. Until that time, SBC/Ameritech will require CLECs to utilize the current inadequate testing procedures. The Commission must reject this proposal, given the problems identified above, since it would allow the existing procedures to remain in place until March 2001. In addition, the Commission should require that the testing process be modified to run off of a separate computer system that mirrors the production system. Until these modifications occur, CLECs are unable to conduct true tests of changes in the application-to-application interfaces and are at risk of discovering problems only at the production level, which jeopardizes CLECs service to customers. (AT&T Initial Comments, AT&T Ex. 4, p.62)

As to the planned changes, SBC/Ameritech's proposed testing process is not sufficient for several reasons. First, the POR fails to detail whether the future test process includes a computer-based testing system that is physically separate from its production interfaces. As explained above, this is an essential requirement of any testing process.

Second, SBC/Ameritech proposes to monitor test transactions for all CLECs regardless of whether the CLEC requests monitoring.¹¹ (AT&T Initial Comments, AT&T Ex. 4 p. 65) This proposal could adversely affect CLECs, especially if they do not desire to be involved in the testing. This is because, as part of the testing process, SBC/Ameritech stops the flow of the transaction, reviews it, and indicates which test transaction it is before allowing the order to continue through the normal flow. (Tr. 671) This type of review does not take place in the normal production environment. At the very least, the monitoring process slows the movement of test orders through SBC/Ameritech's systems, which necessarily impacts the interval within which SBC/Ameritech's systems provide CLECs a response to the pre-order or order transaction. In addition, monitoring test orders may detract from order flow through processing and diminish a CLEC's ability to test SBC/Ameritech's flow through performance. This would impact a CLEC's ability to conduct end-to-end testing, in which the test order is received, processed and confirmed electronically. Monitoring disrupts this normal flow of a transaction and obscures the test results that CLECs are relying upon to implement changes to their application-to-application interfaces. (AT&T Initial Comments, AT&T Ex. 4 p. 66)

The SBC/Ameritech POR also fails to indicate whether the March 2001 joint testing process will be available in instances where a CLEC initiated changes on its side of the interface and seeks to test them, or whether those will only be available for testing new

¹¹SBC/Ameritech proposes that no more than 10% of a CLECs test orders be sent during a window in which no monitoring will occur. (SBC/Ameritech Initial Comments, Amer. Ex. 4, p. 16) SBC/Ameritech, however, is unable to provide CLECs with specific information regarding the window, such as its length. (Tr. 675)

releases of SBC/Ameritech initiated changes. Both types of testing are necessary to support market entry. (AT&T Initial Comments, AT&T Ex. 4 pp. 63-64)

The joint testing proposal is also contradictory. Although the POR claims that SBC/Ameritech's testing environment will "mirror" production, this commitment is later contradicted by other portions of the POR. These later portions heavily caveat this commitment in a manner that would make the testing environment significantly *different* from production. SBC/Ameritech's joint testing proposal for pre-ordering must be revised to include commitments from SBC/Ameritech that it will utilize the interfaces and software systems that mirror production systems and that it will make available all pre-ordering functionality that is available to CLECs in production. While SBC/Ameritech witness Angela Cullen has testified that SBC/Ameritech will give CLECs access to all pre-ordering functions for a particular type of test, including the databases surrounding those functions, as well as software systems that mirror production systems, the POR lacks language memorializing such a commitment. (Tr. 689-92) The Commission should ensure that the POR includes these commitments. (AT&T Initial Comments, AT&T Ex. 4 pp. 66-67)

Staff shares the concerns raised by the Joint Small CLECs regarding SBC/Ameritech's current joint testing procedures. It is Staff's position that the current testing environment with its manual testing procedure is not conducive to reliable testing because it is difficult to determine whether the manual intervention in the testing process skews the validity of the test results. (Staff Initial Comments, Staff Ex. 2, p. 8) In addition, Staff believes that the entry of more CLECs into the marketplace raises additional concerns whether SBC/Ameritech's current testing environment can sustain a constant stream of CLEC requests for tests. Even assuming that SBC/Ameritech can allocate more

personnel to the testing process, the current manual testing environment is still rather inefficient. According to Staff, the Commission, therefore, should direct SBC/Ameritech to inventory the current testing process, then upgrade it from the existing manual testing and verification to a more efficient computerized testing procedure which is likely to reduce the turn around of the test results. (Staff Initial Comments, Staff Ex. 2, p. 8)

Staff recommends that SBC/Ameritech make the following changes to the current joint testing process: (1) CLECs should be able to increase the number of test records they can send in a day to 15 from 5; (2) The turn around time for a response from SBC/Ameritech on whether the record passed should be reduced from 4 days to 1 day; (3) CLECs should have a minimum of 15 days and a maximum of 30 days prior to the scheduled release for testing any release planned prior to the March 2001 release, and; (4) Dedicated resources should be assigned to the CLECs during a given test period to assist them in the process (other than their SBC/Ameritech Account representative). (Staff Initial Comments, Staff Ex. 2, p. 8) Joint Small CLECs fully support Staff's proposal.

Joint Small CLECs support Staff's recommendation that any ambiguous language in the proposed testing process be more detailed and less ambiguous, in order to minimize disputes between the CLECs and SBC/Ameritech. Specifically, Staff recommends that all necessary amendment be made no later than December 15, 2000, or not more than thirty days after the order in this docket, whichever is sooner. Also, the time between when a test is initiated and concluded should be pre-determined. Staff further recommends that a 60-day test period for initial POR-related releases and a 30-day test period for other releases be accepted. Joint Small CLECs agree with Staff that the Commission should hold SBC/Ameritech to its promise that all tests meet the industry guidelines. Finally, Staff

recommends that SBC/Ameritech be mandated to use computerized testing procedures and that SBC/Ameritech publicly demonstrate in a workshop forum the efficacy of the proposed testing process to the Commission and the CLECs. (Staff Initial Comments, Staff Ex. 2, pp. 10-11)

The Commission should adopt Staff's proposal.

Disputed Issue 4: Change Management Process – OIS Voting Process

Statement of Issue: The only remaining issue regarding SBC's Change Management Process is the Outstanding Issue Solution voting process. SBC/Ameritech inappropriately proposes to include a minimum requirement on the number of CLECs that may participate in an OIS vote on changes to SBC/Ameritech's OSS. That limitation should not be countenanced, and the voting process should be based instead on a simple majority vote of qualified CLECs who choose to participate in the OIS vote.

**Competitive
Ramifications:** The practical effects of SBC/Ameritech's position will be to silence the CLECs who have grave concerns about the impact of a proposed change. SBC/Ameritech's position prevents concerned CLECs from being able to maintain the status quo if the proposed change is somehow problematic. The OIS voting process was conceptually developed as such a safeguard. The CLECs want to ensure that the OIS process gives participating CLECs a meaningful opportunity to affect the process.

As part of the Change Management Process, SBC/Ameritech and the CLECs have agreed on inclusion of an Outstanding Issue Solution ("OIS") voting process. The OIS voting process is available to CLECs to challenge an SBC/Ameritech proposed OSS change. The only issue in dispute is the number of CLECs that may participate in an OIS

vote. For the reasons described herein, SBC/Ameritech's proposal will stifle the CLECs and ensure that SBC/Ameritech will infrequently, if ever, be prevented from implementing OSS changes it desires to make.

It is the Joint Small CLECs' understanding that SBC/Ameritech initially agreed that notification that a CLEC had requested an OIS would be sent by SBC/Ameritech to all CLECs and result in a conference call among interested parties, during which a majority vote of the qualified participants in that conference call would decide the outcome. It is further the Joint Small CLECs' understanding that SBC/Ameritech changed its position and now proposes that a quorum of qualified¹² CLECs should be required to participate in the OIS vote. If there is no quorum, a vote cannot be taken and SBC/Ameritech may move forward with its implementation. The actual number of CLECs that would constitute this quorum, and their identities, will be known only to SBC/Ameritech. (AT&T Initial Comments, AT&T Ex. 4, p. 13) At the hearing, SBC/Ameritech explained that it has further revised its position and now proposes that either a quorum of qualified CLECs or eight CLECs participate in the vote, whichever is less. (Tr. 69-74, 85) However, the POR now before the Commission in this proceeding fails to reflect that position. (Tr. 69)

SBC/Ameritech acknowledges the importance of having a workable OIS voting process to deal with issues where negotiation does not result in resolution. (Tr. 84) While SBC/Ameritech takes the position that CLECs should have the opportunity to challenge any SBC/Ameritech system change that could adversely affect the CLECs if implemented,

¹²Qualification for a vote depends upon the particular OSS transactions at issue. For example, a CLEC may qualify for an OIS on EDI-related changes by having tested the release, registered a change management point of contact, and engaged in at least 30 EDI transactions the prior month. (Tr. 43)

SBC/Ameritech's specific proposal ensures that will not be the case. Under SBC/Ameritech's proposal, only those CLECs that have engaged in a certain minimum number of transactions will be able to participate in an OIS vote. The purpose of this minimum is ostensibly to weed out those CLECs that are not affected by the proposed change. (Tr. 80) A quorum of qualified CLECS would then be necessary for the vote to be taken. For example, while there may be 300 certificated CLECs in Illinois (Tr. 111), only 30 may possibly have engaged in enough EDI transactions to be qualified to participate in a vote involving an EDI change.¹³ While the notice will go out to the CLECs, if a majority of those 30 CLECs does not participate in the conference call, a vote cannot be taken. (Tr. 85) The result will be that the affected and interested CLECs will be unable to stop implementation of the OSS change.

There are numerous problems with SBC/Ameritech's proposal. First, it is highly unlikely that a quorum would ever be present. As the documents filed in this proceeding show, only nine carriers actively participated in the collaboratives leading up to this arbitration.¹⁴ SBC/Ameritech could not state whether that number would be sufficient to constitute a quorum to oppose an OSS change. (Tr. 48-50) Indeed, the Joint Small CLECs are unaware of any meeting taking place in Illinois over the last year that included a "majority" of the CLECs operating in the state. While SBC/Ameritech indicated that nearly forty carriers are using its EDI interface, only seven carriers actively participated in

¹³However, the CLECs will not necessarily be informed of the identities of the qualified CLECs. (Tr. 61)

¹⁴These carriers include AT&T, WorldCom, Sprint, McLeodUSA, Covad, North Point, CoreComm, 21st Century/RCN and Nextlink. (Tr. 48) As is also apparent by the filings and the transcript, Sprint did not file any substantive comments nor appear at the hearing.

the thirteen-state change management discussions. Similarly, only a handful of CLECs participate in the SBC/Ameritech sponsored forums held over the past three years. (Tr. 109) What this demonstrates is that, even if all active Illinois CLECs participated in an OIS meeting, that would likely not be sufficient to constitute a quorum or for a vote to go forward. The result of SBC/Ameritech's proposal is that there would be no means by which a CLEC could stop implementation of an adverse OSS change.

Second, SBC/Ameritech's quorum proposal is based on the erroneous assumption that an affected CLEC will always be interested in the OSS change at issue. That is not necessarily the case. As even SBC/Ameritech's expert acknowledged, "the fact that a CLEC may be affected by a change does not necessarily mean that the CLEC is interested in that particular issue." (Tr. 80) However, SBC/Ameritech's proposal would require CLECs who are not interested in the OSS change to participate in the vote in order to attain a quorum. (Tr. 80-81) SBC/Ameritech's proposal would have the effect of preventing the vote from going forward.

Third, SBC/Ameritech's proposal has an inappropriate and unfair result: it assumes non-participation in a vote is a default vote in favor of implementation of the change. The CLECs all agree -- and the Commission must find -- that if a CLEC wishes to abstain from involvement in a vote about a pending change, it should be able to "opt-out" of the debate completely and that doing so should not be considered acquiescence in the change. (AT&T Initial Comments, AT&T Ex. 4, pp. 14-15)

Fourth, while SBC/Ameritech has now added the minimum of eight qualified CLECs alternative, this aspect of its proposal is arbitrary and unsupported, and fails to rectify the other shortcomings of the proposal. Significantly, the witness proffered by SBC/Ameritech

to support its proposal was not involved with the decision to add the eight CLEC minimum. Indeed, this expert had not participated in any of the Illinois collaboratives nor had she read the minutes of those meetings.¹⁵ (Tr. 40) Thus, she could not explain why "eight" was chosen as the minimum number. (Tr. 51-52) Moreover, she was forced to admit that there may be less than eight qualified CLECs participating in this arbitration. (Tr. 53) That admission alone should convince this Commission that the proposal is inherently flawed and designed to take from the CLECs the very benefits that OIS is designed to provide. There can be no other conclusion than that the inclusion of an arbitrary minimum number of CLECs that would enable an OIS vote to go forward does not remedy the undeniable flaws in SBC/Ameritech's proposal.

Fifth, SBC/Ameritech's proposal does not achieve its intended objective. SBC/Ameritech claims that one of the purposes of its voting proposal is to ensure that small CLECs' interests are protected. (Tr. 55) Yet, not a single small CLEC has supported SBC/Ameritech's proposal or objected to the CLEC proposal in this proceeding. (Tr. 55) Indeed, the small CLECs signing this final statement oppose SBC/Ameritech's proposal. Moreover, the evidence makes clear that the small CLECs are worse off if SBC/Ameritech's proposal is adopted. As Rod Cox of McLeodUSA stated:

Q. [By Examiner Moran] I mean, what is the cost to vote?

A. It's probably not the issue of cost of vote. It's the issue of having a resource dedicated to that from a smaller CLEC they may not have that contact that's keeping up with every session that's going on. I mean, I'm just speaking for a smaller CLEC. We have people that attend. But it's more of the issue of the

¹⁵Indeed, it was unclear from her testimony whether she actually had read the change management plan that is the subject of this proceeding. (See Tr. 40-41)